

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Alexis Centeno, #14146-055,) C/A No. 4:16-1482-BHH-TER
)
)
Plaintiff,)
)
) ORDER
vs.)
)
)
Defendants.)
)
_____)

It appears Plaintiff may be asserting a claim under the Federal Tort Claims Act (FTCA). The Federal Employees Liability Reform and Tort Compensation Act of 1988, also known as the Westfall Act, affords federal employees absolute immunity from common-law tort claims arising out of acts they undertake in the scope of their office or employment. See 28 U.S.C. § 2679(b)(1). Therefore, when a federal employee is sued for a wrongful or negligent act, the Westfall Act “empowers the Attorney General to certify that the employee ‘was acting within the scope of his office or employment at the time of the incident out of which the claim arose.’ ”Gutierrez de Martinez v. Lamagno, 515 U.S. 417, 419–20, 115 S.Ct. 2227, 132 L.Ed.2d 375 (1995) (quoting 28 U.S.C. § 2679(d)(1)). After the Attorney General's certification, the named defendant employee is dismissed from the action and the United States is substituted as the defendant in place of the employee. See Osborn v. Haley, 549 U.S. at 229–30, 127 S.Ct. 881. The case is then governed by the Federal Tort Claims Act. Id. at

230, 127 S.Ct. 881.

In the present case, no certification or petition has been filed. The parties have ten days to submit a supplemental brief on the validity as to any claim Plaintiff is asserting under the FTCA to include, but not limited to, the provision discussed above including whether or not Plaintiff complied with the requirements for administrative exhaustion of a FTCA action.

March 7, 2017
Florence, South Carolina

s/Thomas E. Rogers, III
Thomas E. Rogers, III
United States Magistrate Judge